

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

**STEPHEN ALEXANDER, individually and on
behalf of all others similarly situated,**

Plaintiff,

v.

**FRANKLIN RESOURCES, INC., FRANKLIN
ADVISERS, INC., FRANKLIN/TEMPLETON
DISTRIBUTORS, INC.,**

Defendants.

07-CV-848 (WJM)

ORDER

Plaintiff having previously filed a suit against Defendants; this Court having dismissed that suit under Federal Rule of Civil Procedure 12(b)(6) with prejudice; Plaintiff having filed this suit against Defendants alleging formally different but substantively similar causes of action based on the same wrongdoing alleged in Plaintiff's first suit; these new causes of action constituting the same claim for purposes of res judicata as those already dismissed by this Court; Defendants having filed a Motion to Dismiss under Rule 12(b)(6) alleging, inter alia, that Plaintiffs' claims are thus barred by res judicata; Defendant failing to oppose the Motion on this ground; this Court agreeing that its dismissal of Plaintiff's previous claims bars Plaintiff from now asserting what is essentially the same claim for purposes of res judicata, *see, e.g., Churchill v. Star Enters.*, 183 F.3d 184, 194 (3d Cir. 1999) ("A determination of whether two lawsuits are based on the same cause of action [for claim preclusion purposes] turn[s] on the essential similarity of the underlying events giving rise to the various legal claims.") (quotation omitted); *see also CoreStates Bank, N.A. v. Huls Am., Inc.*, 176 F.3d 187, 194 (3d Cir. 1999); Plaintiff having made a Motion to Strike portions of Defendants' Reply Brief for raising issues not raised in either Defendants' Motion or Plaintiff's Opposition; Plaintiff's Motion to Strike appearing without merit; and good cause appearing;

IT IS on this 27th day of November 2007, hereby

ORDERED that Defendants' Motion to Dismiss is **GRANTED** on the grounds that Plaintiff's claims are barred by res judicata, and it is further

ORDERED that Plaintiff's Motion to Strike portions of Defendants' Reply Brief is **DENIED**.

s/William J. Martini

William J. Martini, U.S.D.J.